

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 16] NEW DELHI, FRIDAY, MARCH 7, 1952

MINISTRY OF LAW

New Delhi, the 7th March, 1952

The following President's Act enacted on the 7th March, 1952, is published for general information :—

THE CAPITAL OF PUNJAB (DEVELOPMENT AND REGULATION) ACT, 1952.

No. V OF 1952

[7th March, 1952]

An Act to make certain provisions in respect of the development and regulation of the Capital of Punjab.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951 (XLVI of 1951), the President is pleased to enact as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Capital of Punjab (Development and Regulation) Act, 1952.

(2) It extends to such areas comprising the site of the Capital of Punjab as may, from time to time, be specified by the State Government by notification in the Official Gazette.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "advertisement" means any word, letter, model, sign, placard, board, notice, device or representation in any manner whatsoever, wholly or in part, intended for the purpose of advertisement, announcement or direction, and includes any structure used or adapted for the display of advertisements;

(b) "amenity" includes roads, water-supply, street lighting, drainage, sewerage, public building, horticulture, landscaping and any other public utility service provided at Chandigarh;

(c) "building" means any construction or part of a construction which is transferred by the State Government under section 3 and which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not, and includes any out-house, stable, cattle-shed and garage and also includes any building erected on any land transferred by the State Government under section 3;

(d) "Chandigarh" means the areas comprising the site of the Capital of Punjab to which this Act extends;

(e) "Chief Administrator" means an officer appointed as such by the State Government, by notification in the Official Gazette, to perform the functions of the Chief Administrator under this Act;

(f) "erect a building" has the same meaning as "erect or re-erect any building" in the Punjab Municipal Act, 1911 (Punjab Act III of 1911);

(g) "Estate Officer" means a person appointed as such by the State Government, by notification in the Official Gazette, to perform the functions of the Estate Officer under this Act;

(h) "occupier" means a person (including a firm or other body of individuals, whether incorporated or not) who occupies a site or building transferred under this Act and includes his successors and assigns;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "site" means any land which is transferred by the State Government under section 3;

(k) "transferee" means a person (including a firm or other body of individuals whether incorporated or not) to whom a site or building is transferred, in any manner whatsoever, under this Act and includes his successors and assigns;

(l) "workshop" means any building or place in which or within the compound of which any manual labour is employed or utilised in aid of, or incidental to, any process for the following purposes:—

(i) the making of any article or part thereof;

(ii) the altering, repairing, ornamenting or finishing of any article; or

(iii) the adapting for sale of any article.

3. Power of State Government in respect of transfer of land and buildings in Chandigarh.—(1) The State Government may sell, lease or otherwise transfer, whether by auction, allotment or otherwise, any land or building belonging to the Government in Chandigarh on such terms and conditions as it may, subject to any rules that may be made under this Act, think fit to impose.

(2) The consideration money for any transfer under sub-section (1) shall be paid to the State Government in such manner and in such instalments and at such rate of interest as may be prescribed.

(3) The unpaid portion of the consideration money together with interest or any other amount, if any, due to the State Government on account of the transfer of any site or building under sub-section (1) shall be a first charge on that site or building, as the case may be; and notwithstanding

anything contained in any other law for the time being in force, no transferee shall, except with the previous permission in writing of the Estate Officer, be entitled to sell, mortgage or otherwise transfer (except by way of lease from month to month) any right, title or interest in the site or building transferred to him under sub-section (1) until the amount which is a first charge under this sub-section has been paid in full to the State Government.

4. Power to issue direction in respect of erection of building.—(1) For the purpose of proper planning or development of Chandigarh, the State Government or the Chief Administrator may issue such directions as may be considered necessary, in respect of any site or building, either generally for the whole of Chandigarh or for any particular locality thereof, regarding any one or more of the following matters, namely:—

(a) architectural features of the elevation or frontage of any building;

(b) erection of detached or semi-detached buildings or both and the area of the land appurtenant to such building;

(c) the number of residential buildings which may be erected on any site in any locality;

(d) prohibition regarding erection of shops, workshops, ware-houses, factories or buildings of a specified architectural character or buildings designed for particular purposes in any locality;

(e) maintenance of height and position of walls, fences, hedges or any other structural or architectural construction,

(f) restrictions regarding the use of site for purposes other than erection of buildings.

(2) Every transferee shall comply with the directions issued under sub-section (1) and shall, as expeditiously as possible, erect any building or take such other steps as may be necessary, to comply with such directions.

5. Bar to erection of buildings in contravention of building rules.—(1) No person shall erect any building at Chandigarh in contravention of any building rules made under sub-section (2).

(2) The State Government may, by notification in the Official Gazette, make rules to regulate the erection of buildings and such rules may provide for all or any of the following matters, namely:—

(a) the materials to be used for external and partition walls, roofs, floors, stair-cases, lifts, fire-places, chimneys and other parts of a building and their position or location or the method of construction;

(b) the height and slope of the roofs and floors of any building which is intended to be used for residential or cooking purposes;

(c) the ventilation in, or the space to be left about, any building or part thereof to secure a free circulation of air or for the prevention of fire,

(d) the number and height of the storeys of any building;

(e) the means to be provided for the ingress or egress to and from any building,

(f) the minimum dimensions of rooms intended for use as living rooms, sleeping rooms, or rooms for the use of cattle;

(g) the ventilation of rooms, the position and dimensions of rooms, or projections beyond the outer faces of external walls of a building and of doors or windows.

6. Power to require proper maintenance of site or building.—If it appears to the Chief Administrator that the condition or use of any site or building is prejudicially affecting the proper planning of, or the amenities in, any part of Chandigarh or the interests of the general public there, he may serve on the transferee or occupier of that site or building a notice requiring him to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such a manner as may be specified therein.

7. Levy of fee or tax for amenities—(1) For the purpose of providing, maintaining or continuing any amenity at Chandigarh, the State Government may levy such fees or taxes as it may consider necessary (which shall be in addition to any fee or tax for the time being leviable under any other law) in respect of any site or building on the transferee or occupier thereof.

(2) If the State Government considers it necessary or expedient so to do, having regard to the fact that the transferee or occupier is a religious or charitable institution or that he does not enjoy the amenity for which any fee or tax is levied, the State Government may, by general or special order, exempt wholly or partly any class of such transferees or occupiers from the payment of fees or taxes levied under sub-section (1).

8. Imposition of penalty and mode of recovery of arrears.—(1) Where any transferee makes any default in the payment of any consideration money or instalment thereof or any other amount due on account of the transfer of any site or building under section 3 or of any rent due in respect of any lease, or where any transferee or occupier makes any default in the payment of any fee or tax levied under section 7, the Estate Officer may direct that in addition to the amount of arrears, a sum not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(2) In the case of any default in the payment of an amount payable under this Act, the outstanding amount in default together with any sum, if any, directed to be paid by way of penalty under sub-section (1) may be recovered from the transferee or occupier, as the case may be, in the same manner as an arrear of land revenue.

9. Forfeiture for breach of conditions of transfer.—In the case of non-payment of consideration money or any instalment thereof on account of the transfer of any site or building under section 3 or of any rent due in respect of the lease of any such site or building or in case of the breach of any other conditions of such transfer or breach of any rules made under this Act, the Estate Officer may, if he thinks fit, resume the site or building so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.

10. Appeal and revision.—(1) Any person aggrieved by an order of the Estate Officer made under section 9 may, within thirty days of the date of the communication to him of such order, prefer an appeal to the Chief Administrator in such form and manner as may be prescribed:

Provided that the Chief Administrator may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Chief Administrator may, after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such orders as he deems fit.

(3) The Chief Administrator may, either of his own motion or on an application received in this behalf, at any time call for the record of any proceeding in which the Estate Officer has passed an order for the purpose of satisfying himself as to the legality or propriety of such order and may pass such order in relation thereto as he thinks fit:

Provided that the Chief Administrator shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

(4) The order passed by the Chief Administrator under sub-section (2) or sub-section (3) shall be final.

11. Preservation and planting of trees.—If it appears to the Chief Administrator that it is necessary or expedient to preserve trees generally or a specified kind of trees in Chandigarh, he may, by notification in the Official Gazette, make an order (hereinafter referred to as the Trees Preservation Order) with respect to trees generally or such kind of trees as may be specified in that order, and such order may regulate, restrict or prohibit—

(a) the cutting down, topping, lopping or wilful destruction of trees, except with the previous permission of the Chief Administrator; and

(b) the planting and replanting of any trees or kinds of trees in any site or location therein as may be specified in the order.

12. Control of advertisements.—If it appears to the Chief Administrator that it is necessary or expedient to restrict or regulate the display of advertisements in Chandigarh, he may, by notification in the Official Gazette, make an order (hereinafter referred to as the Advertisements Control Order) restricting or regulating the display of advertisements and such order may provide—

(a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which such advertisements may be displayed and the manner in which they are to be affixed to land or building;

(b) for requiring the permission of the Chief Administrator to be obtained for the display of advertisements;

(c) for enabling the Chief Administrator to require the removal of any advertisement which is being displayed in contravention of the order or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the order;

(d) for fees to be charged for advertisements at places specified in the order.

13. Penalty for contravention of direction, etc.—Any person who contravenes the provisions of sub-section (2) of section 4 or sub-section (1) of section 5 or section 6 shall, on conviction, be punishable with fine which may extend to five hundred rupees and to a further fine which may extend

to twenty rupees for each day during which the offence is proved to have continued after the first day.

14. Penalty for contravention of Trees Preservation Order and Advertisement Control Order.—(1) If any person contravenes any provision of the Trees Preservation Order or of the Advertisements Control Order, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine, which may extend to five hundred rupees, or with both; and whoever after having been convicted of the contravention of any provision of either of the said orders continues to contravene the said provisions, he shall, on a subsequent conviction, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and to a further fine which may extend to twenty rupees for each day after the previous date of conviction during which the contravention is so continued.

(2) The Court trying the contravention of any provision of the Trees Preservation Order may, if it so thinks fit, direct that any property in respect of which the order has been contravened or any part thereof shall be forfeited to the Government or impose a fine of an amount which shall be equivalent to the value of that property or part thereof.

15. Procedure for prosecution.—No Court shall take cognizance of any offence punishable under this Act or any rule made thereunder except on the complaint of, or upon information given by, the Chief Administrator or any other person authorised by him in this behalf.

16. Bar of jurisdiction of courts.—No order made by the State Government or any other authority in exercise of any power conferred by or under this Act shall be called in question in any Court.

17. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the Chief Administrator, Estate Officer, or any other person acting under their direction in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government, the Chief Administrator, or the Estate Officer or any other person in respect of any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or rules or orders made thereunder.

18. Delegation.—(1) The State Government may by order direct that any power exercisable by it under this Act shall be exercisable, subject to such conditions, if any, also by such officers subordinate to the State Government as may be specified in the order.

(2) The Chief Administrator may delegate all or any of his powers under this Act to any officer of the State Government, subject to such conditions, if any, as may be specified by the Chief Administrator.

19. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions on which any land or building may be transferred by the State Government under this Act;

(b) the manner in which consideration money for any transfer may be paid;

(c) the rate of interest payable, and the procedure for payment of instalments, interest fees, rents or other dues payable under this Act;

(d) the terms and conditions under which the transfer of any right in any site or building may be permitted;

(e) erection of any building or the use of any site;

(f) levy of fees or taxes under section 7;

(g) the terms and conditions for the breach of which any site or building may be resumed;

(h) the conditions with regard to the buildings to be erected on sites transferred under this Act;

(i) the form of notice and the manner in which notices may be served;

(j) the form and manner in which appeals and applications under this Act may be filed and the court-fees leviable on such appeals and applications;

(k) the matters referred to in sub-section (2) of section 5;

(l) any other matter which has to be or may be prescribed.

(3) Any rule made under this section may provide that a contravention of any of the provisions thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for each day during which such contravention continues after the first conviction; and the Court while passing any sentence on conviction of any person for the contravention of any rule, may direct that any property or part thereof in respect of which the rule has been contravened, shall be forfeited to the State Government.

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,

Secretary.

Reasons for the enactment

The construction of the new Capital of the Punjab at Chandigarh is in progress. It is considered necessary to vest the State Government with legal authority to regulate the sales of building sites and to ensure that

the purchasers construct buildings in accordance with bye-laws and generally observe the conditions of sale. It is necessary also to provide for the maintenance of the amenities provided in the Capital before a properly constituted local body takes over the administration of the city. The Capital of Punjab (Development and Regulation) Act, 1952, seeks to carry out the above objects.

H. V. R. IENGAR,
Secy. to the Govt. of India,
Ministry of Home Affairs.